ACTS and LAWS,

Passed by the Great and General Court or Assembly of the Province of the *Massachusetts Bay* in *New England*, Begun and Held at *Boston*, the Thirty first of *May*, 1699. And continued by several Prorogations unto *Wednesday* the Thirteenth of *March* following, and then Sat:

An Act for putting the Militia of this Province into a readiness for defence of the same.

WHEREAS by the Law of this Province, it is already Provided, That, in case of Alarms made either by the Sea or Land, or other Appearance of an Enemy, the Captain or Captains of the several Towns shall forthwith, on sure or sufficient Intelligence thereof, send out Scouts for the Discovery, and Defence of themselves, &c. And Whereas it is not such and so sudden, as it may be necessary to call together, [illegible] a posture for War the whole Regiment or Troop of one or more Regiments for the Defence of the Province, and His Majesties Subjects therein, in case the approach, or near approach of an Enemy before the notice thereof can reach the Captain General or Commander in Chief, to have Direction or Orders from him for the Manner of [illegible]

Be it therefore Enacted and Declared by this Excellency the Governour, by and with the Advice and Consent of the Council and Representatives in General Court Assembled, and by the Authority of the same, That all persons Commissioned by the Captain General and Commander in Chief of this Province for the time being, to bear Office in any Military Company or Troop within the same, be and hereby are Impowered and Authorized by virtue of such Commission, when and as Occasion shall require, to the ends and to the intents and purposes above said, to Arm, Array and Weapon the Company or Troop respectively under their Command, or part of them, and by force of Arms to Encounter, Repel, Pursue, Kill and Destroy any that shall appear in hostile manner, to attempt or enterprize the destruction, invasion, detriment or annoyance of any of His Majesties Subjects, Forts, Garrisons, Towns or Plantations within this Province. And that such Officers or Officers so taking to Arms, shall forthwith dispatch notice to his or their Superiour Officer of his or their motion, and the occasion thereof, and observe such Commands and Orders as he or they shall receive from him.

And be it further Enacted by the Authority aforesaid, That the Colonel or Chief Officer of each Regiment be, and hereby is Impowered and Authorized, as occasion shall require, in any of the cases and to the intents before mentioned from time to time to assemble in Martial Array, and put into Warlike posture the whole Militia of the Regiment under his Command, or such part of them as he shall think needful, upon any Alarm, Invasion, or notice of the appearance of an Enemy by Sea or Land. And the Regiment, Company or Troops so armed, arrayed and put into Warlike posture, or part of them to lead, conduct and imploy, as the Governour or other fit person by writing under his hand to him, conduct and imploy them

them as well within the Regiment and County whereto they belong, as into any other adjacent County or place within this Province for the assisting, succouring and relieving any of His Majesties Subjects, Forts, Garrisons, Towns or places that shall be assaulted by an Enemy, or in danger thereof; and with their Party, Companies or Troops by force of Arms to Encounter, Oppose and Defeat such Enemy or any of them, by all [illegible] and means whatsoever. And the Colonel or Chief Officer of every Regiment failing to Arms, or leading forth any Party of men, shall forthwith post away the Intelligence and occasion thereof unto the Captain General or the Commander in Chief for the time being; and shall attend and observe such Directions and Orders as he shall receive from him. And in case it happen the Colonel or Chief Officer of any [illegible] of this Regiment for which he is or shall be Commissionated, at the time of any Invasion, Attack or appearance of an Enemy, or Alarm given from any of the Neighbouring Towns or Regiments, the next Commission Officer then within the Regiment, shall [illegible] with the like power and authority herein granted, until the return of the Colonel or other Superior Officer. And every Officer so failing shall post away the Intelligence thereof with the like diligence unto the Captain General, or the Commander in Chief for the time being, and shall attend and observe such Directions and Orders as he shall receive from the Captain General or Commander in Chief.

The like power given to the next Commission Officer in case of the absence of the said Officer.

Penalty for Disorderly Shooting off Guns by Servants, &c. to prevent the ill Consequences of false Alarms by Disorderly Shooting off Guns.

And for the more effectual preventing of false Alarms, That no person or persons whatsoever in any Town or Garrison, shall during the time of War, presume to discharge any Gun or Guns in such Town or Garrison, pretending to discharge the same after the Evening Gun is beat, or before the Morning Gun is beat, on pain that every person so offending and being thereof convicted before any one or more of His Majesties Justices of the Peace shall forfeit and pay the sum of Twenty Shillings for each Gun so discharged, one moiety thereof to and for the use of the poor of the Town where the Offence shall be committed, and the other Moiety to him or them that shall inform for the same. And if such Offender shall not have wherewith presently to pay the Fine, or shall refuse or neglect to pay the same, then he or she shall be Whipt not exceeding two hours time.

And if any person so offending be belonging to any Garrison or Forces in pay in the service and pay in His Majesties Pay, he shall be punished at the discretion of a Court Martial, or the Commission Officers of the Garrison, Troop or Company whereto he belongs, by parading into the Bilbo's, Neck and Heels, or Riding of the Wooden Horse.

An Act for the Speeding of Succours and Assistance to the Neighbouring Provinces and Colonies against His Majesties Enemies.

Be

Be it Enacted and Declared by His Excellency the Governour, Council and Representatives in General Court Assembled, and by the Authority of the same, That in the Vacancy of the General Assembly, it shall be in the power of the Captain General or Commander in Chief for the time being, by and with the advice and consent of the Council, to Transport such part of the Militia of this Province as they shall find needful, or oblige them to March into any of the Neighbouring Provinces or Colonies at any time or times as there shall be occasion until the end of the Session of the General Assembly to Meet and Sit in *May*, which will be in the Year of our Lord, One Thousand Seven Hundred and One, and not afterwards.

An Act for Levying Souldiers.

FOR the more speedy and effectual levying of Souldiers for His Majesties Service, when and so often as there shall be Occasion of the same, for the preservation and defence of His Majesties Subjects and Interest, and the prosecuting, encountring, repelling or subduing such as shall at any time attempt in hostile manner to enterprize the destruction, invasion, detriment or annoyance, of this His Majesties Province, or any of His Majesties Subjects therein. And for the better preventing disappointments through default of any imployed in levying of such Souldiers, or by the non appearance of such as shall be so levyed.

Be it Enacted by His Excellency the Governour, Council and Representatives, in General Court Assembled, and by the Authority of the same, That when and so often as the Chief Officer of any Regiment of Militia within this Province shall receive Orders from the Captain General or Commander in Chief for the time being of the said Province, for the detaching and impressing, or causing to be detached and impressed, for His Majesties Service out of the Regiment under his Command, so many Souldiers as in such Orders shall be mentioned: Such Chief Officer of the Regiment shall forthwith thereupon issue forth his Warrants to the Captains or Chief Officers of the Companies or Troops within his Regiment, or such of them as he shall think fit, requiring them respectively, to detach and impress out of the Militia in the Companies or Troops under their Command, so many able Souldiers furnished and provided as the Law directs, as in the whole shall make up the number which by the Orders of the Captain General or Commander in Chief he shall be directed to detach and impress. On pain that every Chief Officer of a Regiment that shall neglect or not do his utmost to send forth his said Warrants seasonably (having Orders for the same as above mentioned) shall forfeit and pay a Fine of *Twenty Pounds*. And every Captain or other Chief Officer of any Company or Troop that shall receive any Warrant from the Chief Officer of the Regiment whereto such Company or Troop belongs, for the impressing out of the same, any Souldier or Souldiers for His Majesties Service, shall thereupon use his utmost endeavour to detach or impress, or cause to be detached or impressed so many Souldiers as by such Warrant he shall be required; and to have them at the place of Randevouz in time, as therein shall be mentioned: On pain that every Captain or Chief Officer of any Company or Troop that shall neglect or not do his utmost to comply with and perform any Warrant to be by him received as aforesaid from the Chief Officer of the Regiment, shall, for such his neglect and default, pay a Fine of *Ten Pounds*,

Chief Officer of a Regiment upon orders received to grant Warrants forthwith for the Impressing Souldiers.

Penalty for neglect.

Captains of Companies to have so many Souldiers in readiness as he shall be required.

Penalty for neglect.

Pounds. And every Officer or Souldier that ſhall receive a Warrant from his Captain or the Chief Officer of the Company or Troop in which he is inliſted, for the detaching or impreſſing of men, ſhall forthwith attend and perform the ſame on pain of paying a Fine of *Five Pounds*; and all perſons are required to be aiding and aſſiſting to him in the Execution of ſuch Warrant, on pain of forfeiting the Sum of *Forty Shillings*: And if any perſon authorized as aforeſaid, to impreſs any Souldier or Souldiers for His Majeſties Service ſhall exact or take any reward to diſcharge or ſpare any from ſaid Service, he ſhall forfeit ten times ſo much as he ſhall ſo exact or take.

Perſons imploy'd to Impreſs, their penalty for neglect.

Penalty for not aſſiſting them.

No reward to be taken for ſparing of any.

All which fines and penalties aforeſaid, ſhall be one Moiety thereof unto His Majeſty, for and towards the Support of the Government of this Province, and the other Moiety to him or them that ſhall inform and ſue for the ſame by Action, Bill, Plaint or Information in any Court of Record.

Forfeitures how to be recovered.

And be it further Enacted by the Authority aforeſaid, That every perſon liable and fit for Service being orderly impreſſed as aforeſaid for His Majeſties Service, by being Commanded in His Majeſties Name to attend ſaid Service, ſhall by himſelf or other meet perſon in his room (to the acceptance of his Captain or Chief Officer) attend the ſame at time and place appointed, on pain of ſuffering ſix months Impriſonment without Bail or Mainprize, to be committed by Mittimus from any Juſtice of the Peace or Chief Officer of the Company or Troop, where no Juſtice of the Peace is in the Town, upon conviction of ſuch neglect, unleſs ſuch perſon within the ſpace of two hours next after his being impreſſed, ſhall pay to his Captain or Chief Officer by whoſe Warrant he ſhall be impreſſed the Sum of *Ten Pounds*, to be imployed for the procuring and fitting out of a ſuitable perſon in the ſtead of him ſo paying the ſaid Sum, for the Service for which he was impreſſed, if ſuch other ſuitable perſon be timely to be had, otherwiſe to the uſe of the Company or Troop whereto ſuch perſon belongs, for and towards the ſupport of the neceſſary Charges ariſing within the ſame, at the diſcretion of the Commiſſion Officers. And if the Captain or Officer to whom the ſaid Sum of *Ten Pounds* ſhall be paid as aforeſaid by any perſon impreſſed cannot reaſonably procure another ſuitable perſon to Serve in the ſtead of him, ſo paying the ſaid fine, ſuch Captain or Chief Officer ſhall in ſuch caſe forthwith make out a new Warrant for impreſſing another Souldier inſtead of him that was before impreſſed, and ſhall renew his Warrants as often as there ſhall be occaſion, until the number ſent for from him be compleated. And all perſons paying the ſaid Sum of *Ten Pounds* as before mentioned ſhall be eſteemed as perſons that have Served, and be no further or otherwiſe liable to any after Impreſs than thoſe that actually go forth in Service at the ſame time.

Penalty for perſons impreſt neglecting to appear.

And all perſons lawfully impowred to impreſs, may purſue any perſon that hides from the Preſs, or makes his Eſcape, and may by himſelf or Deputy, impreſs ſuch perſon in any place within the Province. And if any perſon impreſſed for His Majeſties Service being ſo duly returned, ſhall remove or go out of the Province, and not attend the Service as required, ſuch perſon at his return ſhall be apprehended by Warrant from any Juſtice of the Peace, and be by him committed to Priſon, unleſs ſuch perſon give ſufficient Security to anſwer it at the next General Seſſions of the Peace, and upon due conviction of the ſaid Offence, by the Oath of him that impreſt him, ſhall ſuffer three months Impriſonment, and before he be releaſed, ſhall alſo pay a Fine of *Ten Pounds* to the uſe of the Company or Troop whereto he belonged at the time of his impreſs: And if any perſon directly or indirectly, by counſel or otherwiſe ſhall prevent the impreſſing, conceal any perſon impreſſed, or knowingly further his Eſcape, ſuch perſon ſhall pay as a Fine, *Forty Shillings.*

Perſons impowred to impreſs their power to purſue.

Penalty on perſons that remove after being impreſt

And

And be it further Enacted by the Authority aforesaid, That all Souldiers shall be in pay from the time of their being Impressed or detached till they be orderly discharged, and have reasonable time allowed them to repair to their usual places of abode. Time of Souldiers pay

And if any Captain or other Chief Officer shall dismiss any Souldier Retained in His Majesties Service, and assume another for gain, such Captain or other Chief Officer shall forfeit the Sum of *Twenty Pounds* to be recovered and disposed of in manner as is before provided for the fine or penalty on Officers neglecting to execute Warrants for Impressing of Souldiers. Penalty for dismissing any Souldier and assuming another for gain.

And be it further Enacted by the Authority aforesaid, That all such Souldiers and Seamen that have been Wounded in His Majesties Service within this Province, and are thereby Maimed or otherwise disabled, and had yearly Pensions heretofore allowed them, shall have the continuance of the same during their abode in this Province, to be paid them out of the Publick Treasury. And all such Souldiers and Seamen as at any time hereafter shall be Maimed or otherwise disabled by any Wound to be received in His Majesties Service within this Province, shall be relieved out of the Publick Treasury, as the Great and General Court or Assembly shall Order. Pensions.

And if any Souldier shall lose his Arms in His Majesties Service, not through his own neglect or default, such loss shall be born by the Publick; and in case any Souldier be furnished with Arms for any Expedition in said Service, he shall allow out of his Wages *Four Pence Per Week* for the same, and return such Arms, or otherwise pay the value thereof. Loss of Arms.

Provided, That this Act shall continue in force unto the end of the Sessions of the General Assembly, to be begun and held on the last *Wednesday* in *May*, which will be in the Year of our Lord, One Thousand Seven Hundred and One, and no longer.

An Act against Deserters.

FOR the better Preventing of Souldiers or Marriners Departure from their Captains or Commanders without leave, or Deserting His Majesties Service.

Be it Enacted and Declared by his Excellency the Governour, by and with the Advice and Consent of the Council, and Representatives in General Court Assembled, and by the Authority of the same; That no Souldier or Marriner retained in His Majesties Service, and Born in His Majesties pay in Garrison or elsewhere by Sea or Land, shall Depart without Licence of his Commander and Desert His Majesties Service, on Pain of being proceeded against as a Felon, and shall suffer the pains of Death, or some other grievous Punishment at the Discretion of the Court before whom the Tryal shall be. Penalty for deserting His Majesties Service.

And every Justice of the Peace within his Precinct, is hereby Authorized and Required to cause all such Deserters or Run-away Souldiers or Marriners which he shall know or be informed of, to be apprehended and secured in order to a Tryal at the next Assizes to be holden for the same County where they shall be taken; or at a Court of Oyer and Terminer by Commissioners to be specially Appointed and Impowred for that purpose. How deserters shall be tryed.

Art

An Act for Punishing of Officers or Souldiers, who shall Mutiny or Desert His Majesties Service.

WHEREAS the Raising and Leasing of Forces is necessary in time of Actual War, or Common danger by Insurrection or Rebellion, for the safety and defence of this Province, and of His Majesties Subjects and Interests therein, until in the Neighbouring Provinces or Colonies

And whereas no man may be forejudged of Life or Limb, or subjected to any kind of punishment by Martial Law, or in any other manner than by the judgment of his Peers, and according to the known and Established Laws of the Province. Yet nevertheless it being requisite for retaining such Forces as shall be Raised for His Majesties Service, on occasion as before mentioned, in their Duty, that an exact Discipline be observed, and that Souldiers who shall Mutiny or Stir up Sedition, or shall Desert His Majesties Service be brought to more exemplary and speedy punishment than the usual Forms of Law will allow.

Officers or Souldiers exciting or joyning in Mutiny or Sedition, or deserting the Service *how* to be punished.

Be it therefore Enacted by His Excellency the Governour, by and with the Advice and Consent of the Council and Representatives in General Court Assembled, and it is Declared by the Authority of the same, That every person that shall be in His Majesties Service being Mustered and in Pay as an Officer or Souldier; who shall at any time during the continuance of this Act, excite, cause or joyn in any Mutiny or Sedition in the Army, Fortress or Garrison whereto such Officer or Souldier belongs; or shall desert His Majesties Service in the Army, Fortress or Garrison, shall suffer Death or such other punishment as by a Court Martial shall be inflicted.

Captain General or Commanders in Chief of the Province, with the consent of the Council to grant Commission for Courts Martial.

And it is hereby further Enacted and Declared, That the Captain General or Commander in Chief of this Province for the time being, may by vertue of this Act, and during the continuance thereof have full Power and Authority, by and with the advice and consent of the Council, to grant Commission to any Colonel or other Field Officer in His Majesties Service, and under Pay from time to time, to call and assemble Courts Martial, for punishing such Offences as aforesaid.

Constitution of such Court.

And it is hereby further Enacted and Declared, That no Court Martial which shall have power to inflict any punishment by vertue of this Act for any of the Offences aforesaid, shall consist of fewer than Eleven; whereof none to be under the degree of a Commission Officer; And the Præsident of such Court Martial not to be under the degree of a Field Officer, or the then Commander in Chief of the Forces under Pay, where the Offender is to be Tryed. And that such Court Martial shall have Power and Authority to Administer an Oath to any Witness in order to the Examination or Tryal of the Offences aforesaid.

Power to Swear witnesses.

Ordinary Process of Law not exempted.

Provided always, That nothing in this Act contained shall extend or be construed to Exempt any Officer or Souldier whatsoever from the ordinary Process of Law.

Time of the continuance of this Act.

Provided also, That this Act shall continue and be in force until the first day of *July*, in the Year of our Lord, One Thousand Seven Hundred and One, and no longer.

Provided

Provided allways and be it Enacted, That in all Tryals of Offenders by Courts Martial to be held by vertue of this Act, where the Offence may be punished by Death, every Officer present at such Tryal before any proceeding be had thereupon, shall take an Oath before the Court, and a Justice of Peace if any such be there present; Otherwise the Presidents of such Court being first Sworn by two of the Members thereof, shall Administer the Oath unto the others. And the President of such Court, and any two other Members thereof are hereby respectively Authorized to Administer the same in these words. *That is to say,*

Officers on Tryals before a Court Martial to be Sworn.

YOU shall well and truly Try and Determine according to your Evidence the matter now before you between Our Soveraign Lord the KING, and the Prisoner to be Tryed. So help you God.

Form of the Oath.

And no Sentence of Death shall be given against any Offender in such case by any Court Martial, unless nine of the Eleven Officers present shall concur therein. And if there be a greater number of Officers present, then the Judgment shall pass by the concurrance of the greater part of them so Sworn; which major part shall not be less than nine, and not otherwise. Nor shall any Sentance of Death passed by any Court Martial upon any Offender, be put in Execution, until Report be made of the whole matter by the President of such Court, unto the Captain General or Commander in Chief of this Province for the time being, in order to receive his directions therein, and the Prisoner shall be kept in safe custody in the mean time. And the Provost Marshal shall have a Warrant Signed by the President of the Court to cause Execution to be done according to Sentance before the same be Executed.

No Sentance of Death to pass on Offender, unless nine of Eleven agree.

No Sentance of Death to be Executed until the Captain General &c. gives directions therein.

An Act to prevent the Deserting of the Frontiers of this Province.

FORASMUCH as the maintaining and defending of the Frontiers in time of War is of very great import. And in regard it would greatly prejudice His Majesties Interest, and Encourage an Enemy if any of the Out Posts should be omitted or exposed by leaving the Frontiers thereof.

Be it therefore Enacted by His Excellency the Governour, by and with the Advice and Consent of the Council, and Representatives in General Court Assembled, and by the Authority of the same, That no Town or Precinct being a Frontier of this Province, which the Towns hereafter named are to be accounted. *That is to say, Wells, York, Kittery, Amsbury, Haverhill, Dunstable, Chelmsford, Groton, Lancaster, Marlborough, Brookfield, Deerfield, Meadow,* and *Woodstock.* Nor any of the Towns following, *To wit, Salisbury, Andover, Billerica, Hatfield, Hadley, Westfield* and *Northampton* (which though they be not Frontiers as those Towns first named, yet lye more open than many others to an Attack of an Enemy) shall be broken up or voluntarily deserted, without application first made by the Inhabitants, and allowance had and obtained from the Governour or our Commander in Chief and Council for their drawing off, if it appear to them that it may be of publick advantage, or that the place is not Tenable. Nor shall any Inhabitant of the Frontier and other Towns or Precincts before-named, or of any of them, having an Estate of Freehold in Lands or Tenements within the same, at the time of such Desertion,

Frontier Towns &c.

Not to be broken up or deserted without Leave.

rection or breaking forth of any War, remove from thence, with Intent to reside or inhabit elsewhere without Special Licence first had and obtained as aforesaid, On pain of forfeiting all his Estate in Lands and Tenements within the Bounds or Limits of such Town or Precinct unto His Majesty to be disposed by Grant of the General Assembly, and the produce thereof to be employed towards the defence of such Town or Precinct, and support of the Garrisons within the same, and not otherwise. And the Selectmen or major part of them together with the Chief Military Officer of such Town or Precinct are hereby enjoyned and ordered to give notice by Certificate in Writing under their hands into the Clerks Office of the Superiour Court of Judicature, of the removal of any such person or persons as aforesaid: And the Clerk on Receipt thereof shall issue out a *Scire Facias*, requiring the person or persons so removing, to appear at the next Superiour Court of Judicature to Sit within the same County to shew cause if any there be, why Judgment should not be entred for the forfeiture of his Lands and Tenements as by this Act is before directed. And in case any person being lawfully Summoned fifteen days before the day of the Courts Sitting, and return thereof made by the Officer shall make default of appearance by himself or Attorney at the Court where such Writ is returnable, his default shall be recorded, and another *Scire Facias* be issued out for his appearance at the next Court, and if such person, being duly summoned, and return thereof made as aforesaid a second time, do not then appear, or if he appear either at the first or second Summons, and shall not produce a Licence from the Governour and Council for his removal, Judgment shall be entred for the forfeiture of such Lands or Tenements, notwithstanding any real or pretended Sale or Conveyance thereof, or any part thereof made between the breaking out of a War, Insurrection or Rebellion and such Judgment entred up.

Forfeiture how to be applyed.

Forfeiture how to be applyed.

And be it further Enacted by the Authority aforesaid, That no Male person of Sixteen Years of Age or upwards that shall be an Inhabitant of or belonging to any of the said Towns or Precincts herein before named, at the time of any Insurrection or breaking forth of any War as aforesaid, and not have any Lands or Tenements in such Town or Precinct shall presume to remove from the same to sojourn or remain elsewhere during the time of such Insurrection or War without Special Licence first had and obtained as aforesaid, On pain of forfeiting unto His Majesty the Sum of Ten Pounds, towards Support and Defence of said Town or Precinct from whence he shall so remove, and the Garrisons within the same, upon Conviction of such removal at the Court of General Sessions of the Peace in the County where such Town or Precinct lyes. And the Selectmen or major part of them, with the Chief Military Officer of any Town or Precinct from which any such person shall remove without Licence as aforesaid, are hereby ordered and enjoyned, to send a Certificate in Writing under their hands of the removal of such person, and time when, unto some of His Majesties Justices of the Peace in the County where they shall be informed such person may be found. And every Justice of the Peace unto whom such Certificate or Complaint shall be brought, is hereby impowred and required to grant a Warrant for the apprehending of such person, if he may be found within his Precinct, and conveying of him before himself, or some other of His Majesties Justices, who shall require sufficient Security for such persons appearance to answer for the same at the next General Sessions of the Peace to be holden for the same County from whence he did so remove, and transmit the Recognizance taken for such persons appearance accordingly unto the Court. And in case the party can find no such Security, then such Justice before whom he shall be convented, shall cause him to be conveyed, at his own Charge from Constable to Constable, and carried before one of His Majesties

Penalty on persons removing that have no Estate in Lands

Forfeiture how to be applyed and disposed

Justices of the Peace to take Security

Persons not finding Security to be carried before a Justice

Majeſties Juſtices within the County from whence he removed, who is impowred and required to commit ſuch Offender unto the Common Goal of the County, unleſs he can find Security as aforeſaid. And if ſuch perſon be Convicted of the ſaid Offence, and be ordered by the Court to pay the fine or forfeiture aforeſaid, and ſhall neglect or be unable to pay the ſame, he ſhall be imployed in Service for the benefit of ſaid Town or Precinct as the Select men ſhall direct, until by his Service he ſhall have fully anſwered and ſatisfied the ſaid forfeiture.

Provided this Act ſhall continue and be in force until the end of the Seſſion of the General Aſſembly, to begin and be held in *May*, in the Year of our Lord, One Thouſand Seven Hundred and One, and no longer.

An Act to Repeal one part of an Act paſſed by the Great and General Court or Aſſembly, begun and held at *Boſton* the Twenty-fifth day of *May*, 1698. Intituled *An Act for the Eſtabliſhing of Precedents and Forms of Writts and Proceſſes in Civil Cauſes*, and for making other Proviſion inſtead thereof.

WHEREAS *in and by the aforeſaid Act (amongſt other things) it was Enacted*, "That where any Execution ſhall be returned "ſatisfyed in part only, the Officer who granted the ſame "may *ex Officio* renew or make out an *Alias* Execution "for the Remainder, provided it be done within the ſpace of Twelve Months "next after Judgment given, without a *Scire Facias* being ſued forth by the "party that recovered the Judgment; *which ſaid Clauſe or part of the Act aforeſaid being found by Experience to be inconvenient and prejudicial in many reſpects.*

Be it Enacted and Ordained by His Excellency the Governour, Council and Repreſentatives in General Court Aſſembled, and by the Authority of the ſame, That the aforeſaid Clauſe or part of the ſaid Act, and every Article, Matter and Thing therein contained, ſhall and is hereby repealed, determined made void, and of none Effect and Force, as if the ſame had never been made.

And that there may be no delay or failure of Juſtice in any kind within this Province.

Be it further Enacted and Declared by the Authority aforeſaid, That where any Execution is, or ſhall be returned, That neither the Goods, Eſtate, or perſon of the Defendant in ſuch Execution named can be found, or that the ſaid Execution is ſatisfied only in part, the Officer from time to time, within the ſpace of twelve months next after return thereof made into the Office, may *ex Officio* renew or make out an *alias* or *pluries* Execution for the whole, or the remainder as the Caſe may be, until the Judgment be fully ſatisfied without a *Scire Facias* being Sued forth upon the Judgment recovered; Any Law, Cuſtome, or Uſage to the contrary in any wiſe notwithſtanding.

An Act in Addition to the Act for building with Stone or Brick in the Town of *Boston*, and preventing Fire.

FORASMUCH as notwithstanding the good and wholesome Provision made and Establish'd by the said Act, Entituled, An Act for building with Stone or Brick in the Town of *Boston*, and preventing Fire, *Past in the Fourth year of the Reign of His present Majesty, and of the late Queen* MARY, *His Royal Consort of happy Memory, divers persons the penalty in said Act not regarding, have been so hardy as to Erect and build Houses, Tenements, and Edifices of Timber, contrary to the express prohibition, true intent and meaning of the said Laws.* And Forasmuch *as the demolishing of such Houses and Buildings (being now finished) and proceeding according to the directions of the said Laws, would probably be thought over great Severity. Yet that such bold and open contempt may not pass wholly unpunished, and to the intent that others may be deterred from doing the like for future.*

Penalty on such as have built with Timber contrary to Law.

Be it Enacted by His Excellency the Governour, Council and Representatives in General Court Assembled, and by the Authority of the same, That the Court of General Sessions of the Peace within the County of *Suffolk*, be and is hereby Impowred and Required to take effectual Order for the enquiring after and conventing before them, all persons that have so transgressed as aforesaid, in having presumed to Erect, or that have caused to be Erected and Set up within the Town of *Boston* aforesaid, any House, Edifice or Building of Timber; Or of Brick or Stone, and not covered the same with Slate or Tyle contrary to the afore recited Act, and the true intent and meaning thereof; Not having had and obtained Licence from the Governour and Council for his or their so doing; Or that have not observed and performed the Terms or Condition of such Licence; and upon due conviction of any such Offence, to fine every such person and persons at the discretion of said Court according to the circumstances eggravating the Offence, with respect to the place where such House or Building is Erected or otherwise, not exceeding the Sum of *Fifty Pounds*, for one Offence, which shall excuse them from any further penalty of the Law. All such Fines to be applied towards the Raising of a Stock for the Setting of the Poor on work within the said Town, at the Work-house for that purpose appointed or to be appointed.

Fines how to be applyed.

Grand jury to enquire & present such Transgressions.

And the Grand Jury for the said County from time to time are required diligently to enquire after, and to present unto the Court all transgressions of the Law in that kind, which shall come to their knowledge.

And inasmuch as it may be of no apparent hazard unto the said Town, and for the ease and benefit of divers Inhabitants and Proprietors within the same, That in some parts of the said Town of Boston, *Timber Buildings should be permitted and allowed to be Erected.*

Governour & Council may grant Licence to build with Timber.

Be it Enacted by the Authority aforesaid, That the Justices of Peace, and the Select-men of the said Town of *Boston*, or the major part of each, certifying their approbation thereof, the Governour and Council may grant Licence for the setting up of Timber Houses and Buildings, with and under such Conditions, Limitations and Restrictions for the enclosing and covering thereof as they shall think fit: Any Law, Usage or Custom to the contrary in any wise notwithstanding.

An

An Act relating to *Billerica* Bridge in the County of *Middlesex*.

FOR *Issuing of the Controversie between the Towns of* Groton, Billerica *and* Chelmsford, *and the Inhabitants of the Farms adjacent arising by reason of the refusal or neglect of the Agents for the Town of* Groton *aforesaid, to pay the Sum set and proportioned on their Town, for and towards the Erecting and Building of the Bridge in the said Town of* Billerica, *in the County of* Middlesex, *which ought in equity to have been paid, the Sum being* Twenty Four Pounds *and* Ten Shillings.

Be it Enacted by His Excellency the Governour, Council and Representatives in General Court Assembled, and by the Authority of the same, That the Court of Quarter Sessions of the Peace to be holden at *Concord*, in the said County of *Middlesex*, on the Second *Tuesday* of *June* next, are hereby ordered and impowred to issue and send forth a Warrant to the Select men or Assessors of the said Town of *Groton*, requiring them forthwith to Levy and Assess the said Sum of *Twenty Four Pounds* and *Ten Shillings* Money, on the Inhabitants of their Town according to Law, and with the Assessment to deliver a Warrant to the Constable of their Town, requiring him to Collect and Gather the same, and said Sum so collected, to deliver and pay in unto Major *Thomas Hinksman*, Major *Jonathan Tinge*, and Mr. *John Lane* Undertakers for the Building of the Bridge lately Erected in *Billerica* above-said, and said Constable to pay in the said Sum, and issue and settle his account with the said Undertakers, at or before the first day of *August* next. And *Groton* shall not be liable to Contribute any thing further toward the Repair or Rebuilding said Bridge at any time for the future, unless the General Court or Assembly shall order the same.

An Act directing how Rates or Taxes to be Granted by the General Assembly shall be assessed and collected.

FORASMUCH *as for the Support of the Government of this His Majesties Province of the* Massachusetts Bay *in* New England, *and for the safety and defence of the said Province, and defraying of the contingent Charges arising within the same, it is necessary a suitable supply of Money should be from time to time granted by the Great and General Court or Assembly of the said Province. To the intent therefore that there may be due provision made and established for assessing all such Sum and Sums of Money as shall be hereafter granted by the Great and General Court or Assembly of this Province to be Levied upon the Polls or Estates within the same, or upon both Polls and Estates, for the support of the Government thereof, or any other publick use or uses whereto the General Assembly shall think fit to apply such Grant or Grants. As also that there may be like due provision to enforce the collecting and paying into the Treasury such Sum and Sums of Money so to be granted as aforesaid according to the true intent of the Act or Acts granting the same.*

Be it Enacted by His Excellency the Governour, Council and Representatives in General Court Assembled, and by the Authority of the same, That in the month of *March* annually, at the same time when Town

Officers are choſen by the reſpective Towns within this Province according to the direction of the Act Entituled, *An Act for Regulating of Townſhips, choice of Town Officers, and ſuffrage forth their Power*: There may be Elected and Choſen by the Freeholders and other Inhabitants of every Town duly qualified to Vote in Town Affairs, then preſent, or the major part of them, three, five, ſeven or nine meet perſons to be Aſſeſſors of all ſuch Rates and Taxes as the Great and General Court or Aſſembly ſhall by any Act or Acts to be by the ſame duly made and paſſed, order and appoint ſuch Town to pay towards the Publick Charges of the Province, within or during the ſpace of one year from the Choice of ſuch Aſſeſſors; Every of which ſo Choſen, ſhall within the ſpace of ſeven days next after, be Sworn before a Juſtice of the Peace, or Town Clerk in any Town where no Juſtice of the Peace dwells (who are hereby reſpectively impowred thereto) in manner following. *That is to ſay*,

Aſſeſſors to be annually choſen in the Month of *March*.

to be Sworn.

Form of Aſſeſſors Oath.

YOU A. B. *being Choſen an Aſſeſſor of ſuch Rates or Taxes as the Great and General Court or Aſſembly of this Province have or ſhall order and appoint the Town of C. to pay into the Province Treaſury, during the ſpace of one year next enſuing.* Do Swear, *That in aſſeſſing or apportioning ſuch Rates or Taxes you will proceed equally and indifferently according to your beſt skill and judgment and the Rules to be preſcribed in the Act or Acts granting the ſame.* So help you God.

And the Town Clerk or two of the Select-men of every Town ſhall forthwith make and give out unto the Conſtable or Conſtables of the ſame, a Liſt of the names of thoſe that ſhall be Choſen Aſſeſſors at any Town meeting as aforeſaid. Which Conſtable or Conſtables ſhall thereupon Summon each of the ſaid Aſſeſſors, to appear at a certain time and place within the ſpace of ſeven dayes from the day of their Election, before a Juſtice of the Peace, if any dwell in ſuch Town, or otherwiſe before the Town Clerk thereof, to take the Oath above mentioned. And if any ſuch Aſſeſſor ſhall neglect to appear accordingly; Or appearing, ſhall refuſe to take the ſaid Oath, he ſhall forfeit and pay to the uſe of the Poor of ſuch Town, the Sum of *Forty Shillings*, and if in *Boſton*, *Five Pounds*, to be recovered in manner and form as is by Law provided for recovering of fines and forfeitures to the uſe of the poor.

Penalty on Aſſeſſors choſen that ſhall refuſe.

And the Select-men of every ſuch Town where any one or more of the Aſſeſſors ſo choſen as aforeſaid, ſhall refuſe to Serve as aforeſaid, ſhall forthwith after notice thereof, Summon a Meeting of the Freeholders and Inhabitants of ſuch Town, to chooſe one or more Aſſeſſor or Aſſeſſors in the room or rooms of ſuch ſo refuſing. Which Freeholders and Inhabitants duly qualified to Vote, being ſo aſſembled, ſhall accordingly chooſe ſo many Aſſeſſors as ſhall be wanting to compleat the number, which the Town at the time of their firſt choice voted and agreed ſhould be Elected for the Time. **Provided nevertheleſs**, That it ſhall be in the power of the Court of General Seſſions of the Peace upon reaſonable excuſe made unto them by any Aſſeſſor or Aſſeſſors choſen for any Town or Towns in the County for which ſuch Court is holden and kept, that ſhall refuſe to accept as aforeſaid, to abate and remit unto ſuch Aſſeſſor or Aſſeſſors (if they ſee cauſe) the forfeiture or penalty aforeſaid.

a new choice to be made.

Court of General Seſſions of the Peace Impowred to abate or remit the Penalty.

And be it further Enacted by the Authority aforeſaid, That if any Town ſhall not chooſe Aſſeſſors as aforeſaid, or if ſo many of them ſo choſen as aforeſaid, ſhall refuſe to accept as that there ſhall not be ſuch a number of them as any Town ſhall agree to be the Aſſeſſors thereof: Then and in either of the ſaid Caſes, the Select-men or Truſtees of ſuch Town ſhall be, and are hereby declared and appointed the Aſſeſſors of the ſame, and every

Select men or Truſtees of Towns to be Aſſeſſors in caſe.

every of them ſhall take the Oath before recited in manner as aforeſaid. And each Aſſeſſor attending that Service ſhall be allowed and paid out of the Town Treaſury, *Two Shillings Per Diem* for each day, he is neceſſarily imployed thereabout. Aſſeſſors Allowance.

And be it further Enacted by the Authority aforeſaid, That if at any time there ſhall be a default or neglect in any Town or Precinct, to make choice of Select men or Aſſeſſors, the ſaid default or neglect being certified and made appear unto the General Seſſions of the Peace within the ſame County, ſuch Town or Precinct ſhall forfeit and pay the Sum of *Twenty Pounds*, for and towards the Support of the Government of this Province, and in ſuch caſe, as alſo where neither the Select men nor Aſſeſſors choſen by any Town ſhall accept thereof, the Juſtices of the Court of General Seſſions of the Peace in the ſame County ſhall and are hereby impowred to nominate and appoint three or more ſufficient Freeholders within ſuch County to be Aſſeſſors of the Publick Rates or Taxes in any ſuch Town as aforeſaid. Which Aſſeſſors ſo to be appointed by the ſaid Court ſhall take the Oath before recited, and ſhall then aſſeſs the Eſtate and perſons of ſuch Town or Precinct of which they ſhall be appointed Aſſeſſors their due proportion to any publick Tax according to the Rules ſet down in the Act for Raiſing of the ſame, together with the aforeſaid forfeiture of *Twenty Pounds* where the Town makes default; and ſuch additional Sum as ſhall anſwer their own reaſonable Charges for time and expence in ſaid Service, not exceeding *Five Shillings* a man *Per Diem*, and having aſſeſſed the ſame, ſhall tranſmit a Certificate thereof to the Treaſurer, with the names of the Conſtables or Collectors to whom they ſhall commit the ſame to be collected. Penalty on Towns that ſhall neglect to chooſe Select-men or Aſſeſſors. Court of General Seſſions of the Peace to appoint Aſſeſſors in caſe. Allowance to ſuch.

And ſuch Aſſeſſors ſhall be paid their Charges as above-ſaid (the ſame being adjuſted and certified by two or more Juſtices of the Court by whom they were appointed Aſſeſſors, under their hands) out of the Publick Treaſury by Warrant from the Governour, with the advice and conſent of the Council. To be paid out of the Publick Treaſury.

And be it further Enacted by the Authority aforeſaid, That all Aſſeſſors as aforeſaid, ſhall duly attend and obſerve all ſuch Warrants as during the time of their Office they ſhall receive from the Treaſurer and Receiver General of this Province, purſuant to any Act or Acts to be made and paſſed by the Great and General Court or Aſſembly of the ſame; for the aſſeſſing and apportioning any Province Rate or Tax upon the Inhabitants or Eſtate within the Town whereof they are Aſſeſſors; On pain that the Aſſeſſors of any Town or Precinct failing of their duty by ſuch Warrant of the Treaſurer of them required, ſhall forfeit and pay the full Sum and Sums in ſuch Warrant mentioned to be by them Aſſeſſed upon the Inhabitants or Eſtate of the Town or Precinct whereof they are Aſſeſſors, if the ſaid Sum and Sums be therein made certain. Which ſhall be Levied by Diſtreſs and Sale of the Eſtates real or perſonal of ſuch defective Aſſeſſors by Warrant from the Treaſurer directed to the Sheriff or Marſhal of the County in which ſuch Town or Precinct lyes. And the Treaſurer is hereby authorized and required in ſuch caſe *ex Officio* to iſſue his Warrant, requiring the Sheriff or Marſhal to Levy the ſaid Sum and Sums accordingly, and for want of Eſtate to take the Bodies of ſuch defective Aſſeſſors, and to Impriſon them until they pay the ſame. Which Warrant the Sheriff or Marſhal is hereby impowred and required to execute accordingly. Penalty on Aſſeſſors that ſhall neglect their duty.

Provided

Penalty of defective Assessors when the Sum to be paid by any Town to a Tax is not made certain.

Provided nevertheless, and be it further Enacted by the Authority aforesaid, That if the Sum to be paid by any Town or Precinct to any Province Rate or Tax be not made certain by the General Assembly, Then and in such case any Assessors failing as aforesaid, shall forfeit and pay a fine, not exceeding *Twenty Pounds*, at the discretion of the Court of General Sessions of the Peace in the same County, being thereof convicted before said Court at the suit or complaint of the Treasurer and Receiver General or any other on his behalf: And such fine to be unto His Majesty, for and towards the Support of the Government of this Province; And the Court before whom such conviction shall be, shall forthwith thereupon appoint other meet persons to be Assessors of such Rate or Tax according to the directions contained in the Treasurers Warrant issued unto the former Assessors; And the Assessors which shall be then so appointed by said Court, shall take the Oath and be liable to the same duty and penalties as the former Assessors.

Persons overrated to be eased.

And be it further Enacted by the Authority aforesaid, That if any person or persons shall at any time be agrieved at the Sum or Sums to be set and apportioned upon him or them by the Assessors of any Town or Precinct, and shall demonstrate that he or they are Rated more than his or their proportion with others according to the Rule given to said Assessors, to the Sum set upon such Town or Precinct by any Act or Acts of the General Assembly, said Assessors shall ease him or them so agrieved; And if they shall refuse so to do, such person or persons agrieved, complaining unto the next General Sessions of the Peace within that County, and making appear that he or they are assessed more than his or their proportion as aforesaid, shall be heard and relieved by the Justices in said Sessions, and shall be reimbursed out of the Town Treasury so much as the said Justices or Assessors respectively shall see cause to abate him or them, with the Charges. And the Court of General Sessions of the Peace are Impowred upon the complaint of any party grieved to require the Assessors to produce the Lists of their Assessment.

Town & County Rates to be apportioned by the same rule as publick Taxes granted the same year.

And be it further Enacted by the Authority aforesaid, That all County and Town Rates and Assessments shall be apportioned by the Selectmen or Assessors of the several Towns and Precincts within this Province, upon the Inhabitants and Estates within the same, according to the Rule that shall from time to time be prescribed and set by Act of the General Assembly for the apportioning and assessing of the Publick Taxes that shall be granted unto His Majesty in that same year; And such Select-men or Assessors shall be under the like obligation of the Oath administred unto them for making of the publick Tax equally and impartially to proportion such County or Town Assessments by the same Rules.

Collectors of publick Taxes may be chosen at the same time with the Assessors.

And be it further Enacted by the Authority aforesaid, That the Freeholders and Inhabitants of any Town duly qualified to Vote in Town Affairs may (if they see cause) at the same time that they choose Assessors as is before provided, likewise Elect and Choose a meet person or persons to be Collector or Collectors of the Publick Rates or Taxes that shall be assessed upon such Town, and agree what Sum or Sums shall be allowed and paid out of the Town Stock unto such Collector or Collectors for his or their Service therein: But if such Collector or Collectors so to be Chosen shall refuse to accept that Service, or that none such be chosen, Then the Constable or Constables of such Town shall collect and gather such publick Rates or Taxes; And every Collector or Constable shall have a Warrant from the Treasurer and Receiver General, Impowring him to collect such Rates or Taxes as shall be committed to him to collect; and shall pay in the same according to the directions in such Warrant.

And

And in caſe of any Conſtables or Collectors deceaſe before his perfecting the Collection of any publick Aſſeſsment committed to him, the Aſſeſſors of ſuch Town ſhall procure and appoint, at the Towns Charge, ſome other fit perſon or perſons to perfect the ſame Collection, and preſent his or their names unto the Treaſurer, who is hereby authorized and required to enable and impower ſuch perſon or perſons to collect the ſame, by granting him or them his Warrant. Proviſion in caſe of Conſtables or Collectors deceaſe.

And be it further Enacted by the Authority aforeſaid, That the Treaſurer and Receiver General ſhall ſend ſuch Warrants as he ſhall be from time to time ordered to iſſue for the aſſeſſing or collecting any publick Rate or Tax, incloſed to the Sheriff or Marſhal of each reſpective County, who is required immediately to diſperſe and tranſmit the ſame unto the Aſſeſſors, Conſtables or Collectors of the ſeveral Towns and Precincts within ſuch County, according to the directions thereof. And for his Service, Charge and Expence therein, ſhall have a reaſonable allowance ordered him by the Juſtices of the General Seſſions of the Peace in the ſame County, to be paid out of the County Treaſury upon his laying the account thereof before them. Sheriff to diſperſe the Treaſurers Warrants. To be paid out of the County Treaſury.

And be it further Enacted by the Authority aforeſaid, That if any perſon or perſons ſhall refuſe to pay the Sum or Sums whereat they ſhall be aſſeſſed as their proportion to any publick Rate or Tax in the Liſt committed to any Conſtable or Collector under the hands of the Aſſeſſors of ſuch Town, or of the major part of them, upon demand thereof made by the ſaid Conſtable or Collector, by virtue of the Warrant to him given; It ſhall and may be lawful to and for ſuch Conſtable or Collector, and he is hereby authorized and required in ſuch caſe to diſtrein the perſon or perſons ſo refuſing, by his or their Goods or Chattels, and the diſtreſs or diſtreſſes ſo taken to keep by the ſpace of four days at the coſt and charges of the Owner thereof. And if the ſaid Owner do not pay the Sum and Sums of Money ſo aſſeſſed upon him within the ſaid four days, then the ſaid diſtreſs or diſtreſſes to be forthwith openly Sold at an outcry by the ſaid Officer for payment of the ſaid Money, (notice of ſuch Sale being poſted up in ſome publick place in the ſame Town, twenty four hours before hand) and the over plus coming by the ſaid Sale (if any be) over and above the Charges of taking and keeping the ſaid Diſtreſs or Diſtreſſes to be immediately reſtored to the Owner. And if any perſon or perſons aſſeſſed as aforeſaid, ſhall refuſe or neglect to pay the Sum or Sums ſo aſſeſſed, by the ſpace of twelve days after demand thereof where no ſufficient diſtreſs can or may be found whereby the ſame may be levied. In every ſuch caſe two or more of the Aſſeſſors in ſuch Town are hereby Authorized by Warrant under their hands and ſeals to commit ſuch perſon or perſons to the Common Goal, there to be kept without Bail or Mainprize until payment ſhall be made. Conſtable or Collector impowred to diſtrein in caſe, &c. Diſtreſs to be Sold by Outcry. Perſons to be committed, not having whereof to diſtrein.

And be it further Enacted by the Authority aforeſaid, That where any perſon or perſons ſhall remove from any Town or place where he or they lived, or had his or their reſidence at the time of making the Liſts of any publick Tax or Aſſeſsment, not having before paid the reſpective Sum or Sums ſet upon him or them by ſuch Liſts. It ſhall and may be lawful to and for the Conſtable or Collector to whom any ſuch Tax or Aſſeſsment ſhall be committed with Warrant to collect, and he is hereby authorized and impowred to demand the Sum or Sums aſſeſſed upon ſuch perſon or perſons, in what Town or place ſoever he or they may be found, and upon refuſal or neglect to pay the ſame, to diſtrein the ſaid perſon or perſons, by his or their Goods or Chattels as aforeſaid; and for want of ſuch Diſtreſs to commit the party to the Common Goal, there to remain until payment be made. Perſons removing from the place where they were aſſeſſed, may be taken in any other.

And

Provision in case of Lands being rated in any Town, in which the Owner or Tenant thereof does not dwell.

And be it further Enacted by the Authority aforesaid, That where the Owner or Tennant of any Lands liable to publick Taxes shall not reside or be an Inhabitant of the Town or Precinct in which such Lands lye, and no Stock, Corn or Hay can be found upon the said Lands, whereof the Constable or Collector may make distress to satisfie such Sum or Sums as from time to time such Lands shall be assessed at, either to the Province, County, or Town Charges; In such case any Justice of the Peace in the County where the Occupant of any such Lands dwells or resides, upon application to him made by the Constable or Collector to whom the List wherein such Lands shall be assessed shall be committed, and upon sight of the same, or authentick Copy thereof, may, and hereby is impowred and required to grant a Warrant unto the Constable of the Town or Precinct where such Occupant dwells or resides, to distrein such Occupant, by his Goods or Chattels, the full Sum at which said Lands are set in such List of Assessment with the Charges occasioned for making such Distress and to satisfie the same by Sale thereof, returning the over plus (if any be) to the Owner. And in case no Goods or Chattels can be found whereon to distrein, to commit the party to the Common Goal of the County, there to remain without Bail or Mainprize, until he pay and satisfie the Sum or Sums so assessed with the Charges.

Provision in case of persons being about to remove before the time for payment of the Second part of any Tax.

And be it further Enacted by the Authority aforesaid, That when at any time the General Assembly shall order any publick Rate or Tax by them granted, to be paid into the Treasury at two or more several times or days of payment, and any person or persons being Inhabitants or Dwellers in any Town or Precinct within this Province at the time of making such Rate or Tax, and being assessed thereunto, shall be about to remove him or themselves from thence before the time that shall be prefixt for payment of the same; It shall and may be lawful in such case to and for the Constable or Collector of the same Town or Precinct, to demand and levy the whole Sum and Sums which such person or persons shall be assessed at in the List or Lists to such Constable or Collector committed, notwithstanding the time for collecting the second part of such Rate or Tax may not then be come; And in default of payment to distrein for the same, or to take any other way or course for the obtaining thereof, according to the rules and directions herein before provided. And when and so often as it happens that Constables be a new Chosen and Sworn for any Town before the former Constables have perfected their Collection of any Tax or Assessment to them committed to gather; Such former Constables are notwithstanding hereby fully impowred and required to perfect all such Collections, and may exercise the same powers and authorities for the gathering and enforcing the payment thereof as by this Act they might have done before other Constables were Chosen and Sworn.

Constables to whom any Tax shall be committed to perfect their collection although other Constables be chosen.

Penalty on defective Constables or Collectors

And be it further Enacted by the Authority aforesaid, That if any Constable or Collector to whom any Publick Tax or Assessment shall be committed to collect, shall be remiss and negligent of his duty, in not levying and paying unto the Treasurer, his Deputy or Deputies, such Sum and Sums of Money, as from time to time he shall have received and as ought by him to have been paid within the respective times set and limited by the Treasurers Warrant, according to the directions therein pursuant to Law; The Treasurer is hereby impowred after the expiration of the time so set by Warrant under his hand and seal, directed to the Sheriff or Marshal to cause such Sum and Sums of Money to be levied by Distress and Sale of such defective Constables or Collectors Estate, real or personal, returning the Over-plus (if any be) and for want of such Estate to take the Bodies of such Constables or Collectors, and to imprison them until they pay the same.

Which

Which Warrant the Sheriff or Marſhal is hereby impowred and required to execute accordingly.

And be it further Enacted, That if any Conſtable or Collector ſo failing as aforeſaid, have no Eſtate to be found whereon to make diſtreſs, and his perſon cannot be taken within the ſpace of two months from the time which was ſet for his paying the ſame into the Treaſury: In ſuch caſe the Town or Precinct whereof the Conſtable or Collector ſo fails of his Duty, ſhall within three months from the expiration of ſaid two months make good to the Treaſury the Sum or Sums due and owing to the ſame from ſuch defective Conſtable or Collector: Which the Aſſeſſors of ſuch Town, (having notice from the Treaſurer of the failure of any Conſtable or Collector as aforeſaid) ſhall forthwith thereupon, without any other or further Warrant, aſſeſs upon the Inhabitants and Eſtates of ſuch Town in manner as the Sum ſo committed to ſuch defective Conſtable or Collector was aſſeſſed: And commit the ſame to ſome other Conſtable or Collector to collect, who is to be impowred thereunto by Warrant from the Treaſurer. **Provided always**, That ſuch Conſtable or Collector failing of his duty as aforeſaid, for whoſe default the Town is anſwerable as before expreſſed, ſhall at all times afterwards be liable to the Action or Suit of the Treaſurer of ſuch Town for all ſuch Sum and Sums as were aſſeſſed upon the ſame through his default, and for other damages accruing unto the ſaid Town thereby.

The Town or Precinct in which any defective Conſtable or Collector lives to be anſwerable for his payment in to the Treaſury the Sums committed to him to collect.

And in caſe of the deceaſe of any Conſtable or Collector in any Town before his having adjuſted the Accompts of the Aſſeſsment to him committed, the Executors or Adminiſtrators of ſuch Conſtable or Collector ſhall within two months after his deceaſe, ſettle and make up Accompts with the aſſeſſors of the ſame Town, of ſuch part of the ſaid Aſſeſsment as was received and collected by the deceaſed Conſtable or Collector in his life time: With which ſuch Executors or Adminiſtrators ſhall be chargeable in like manner as the deceaſed Conſtable or Collector ſhould be if living; And ſuch Aſſeſſors ſhall thereupon procure and appoint other fit perſon or perſons to perfect ſuch Collection as is before provided. And if the Executors or Adminiſtrators of any Conſtable or Collector ſo deceaſing, not having fully collected the Aſſeſsment committed to him, ſhall fail of making up and ſetling the Accompt of what was received by the deceaſed as aforeſaid before the expiration of the time aforeſaid, ſuch Executors or Adminiſtrators ſhall be chargeable with the whole Sum committed to be collected by the Conſtable or Collector unto whom they are Executors or Adminiſtrators in manner as the deceaſed Conſtable or Collector ſhould be if living, in caſe there be ſufficient Aſſets.

Executors or Adminiſtrators of Conſtables deceaſed to make up their accompts &c.

And be it further Enacted by the Authority aforeſaid, That where any Sheriff or Marſhal ſhall make default in accounting for, or returning into the Treaſury the Sum and Sums mentioned in any Warrant or Warrants of diſtreſs by him to be received from the Treaſurer, The Treaſurer in ſuch caſe is hereby authorized and impowred to make out his Warrant directed unto the Coroner of ſuch County where any Sheriff is defective, or to the Conſtable of the Town in which a defective Marſhal lives, Requiring them reſpectively to diſtrain the ſame upon the Eſtate real or perſonal of ſuch defective Sheriff or Marſhal, as is before herein directed referring to the Sheriff or Marſhal, making Diſtreſs upon the Eſtate of defective Conſtables or Collectors. Which Warrant the Coroner of any County, or Conſtable of any Town to whom the ſame ſhall be directed, are hereby reſpectively impowred and required to execute accordingly.

Penalty on defective Sheriffs or Marſhals.

And be it further Enacted by the Authority aforeſaid, That where any Sheriff or Marſhal or any of their Deputies ſhall, by Warrant from the Treaſurer, purſuant to this Act, diſtrain and levy the Lands or Tenements

of any Conſtable or Collector, or where any Coroner or Conſtable ſhall, by Warrant as aforeſaid diſtrain and levy the Lands or Tenements of any Sheriff or Marſhal for their or any of their defaults in not collecting or not paying into the Treaſury any Sum or Sums of money which ought to be by them collected, levied and paid in as aforeſaid. In every ſuch caſe the Sheriff or Marſhal, or either of their Deputies, or the Coroner or Conſtable executing ſuch Warrant or Warrants of diſtreſs ſhall cauſe a due apprizement to be made of any Houſes or Lands ſo levied by the Oaths of two or three ſufficient Freeholders in the ſame County; (which Oath any Juſtice of the Peace is hereby impowred to adminiſter,) and after apprizement thereof ſo made, is hereby fully authorized and impowred to make Sale of ſuch Houſes or Lands, and to make Seal, acknowledge and execute good and ſufficient Deeds and Conveyances for the ſame, and out of the produce thereof to pay and ſatisfie the Sum or Sums for which ſuch Eſtate ſhall be levied with all Charges ariſing thereon, and to return the over-plus upon ſuch Sale (if any be) unto the Owner: And all Deeds and Conveyances of any ſuch Eſtate in Houſes or Lands duely executed as aforeſaid ſhall be good and effectual in the Law unto the Purchaſer and his Heirs and Aſſigns for ever to all intents and purpoſes.

How real Eſtates levied by the Treaſurers Warrant ſhall be diſpoſed of.

Provided allways, and be it further Enacted by the Authority aforeſaid, That in no caſe whatſoever any Diſtreſs ſhall be made or taken from any perſon or perſons of his or their Beaſts belonging to the Plough, nor of Tools or Implements neceſſary for his or their Trade and Occupation, nor of his or their Arms, or Utenſils of Houſhold neceſſary for upholding of life, nor of Bedding or Apparrel neceſſary for him or themſelves or Family. Any Law, Uſage or Cuſtom to the contrary in any wiſe notwithſtanding.

Things Exempted from Diſtreſs.

Provided alſo, That this Act ſhall continue and be in force until the firſt day of *July*, in the Year of our Lord, One Thouſand Seven Hundred and Three, and no longer.